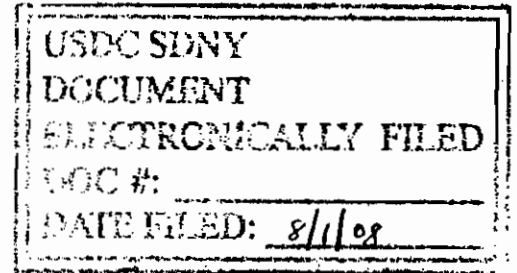


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - -X
:
UNITED STATES OF AMERICA
:
- against -
:
JASON SMITH,
:
Defendant.
:
- - - - -X



08 Cr. 84 (DC)

CHIN, District Judge

The Court received defendant's letter dated August 1, 2008, requesting that the Court reconsider part of its July 31, 2008 ruling with respect to the recording of a February 3, 2008 phone call between defendant and his mother. Specifically, the Court ruled defendant's statement to his mother that "the police was lying" could not be played for the jury.

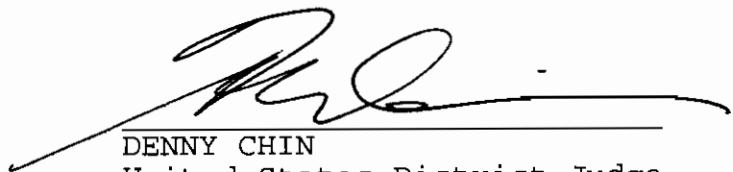
The Court has now had a chance to listen to two versions of the recording -- one with the phrase "the police was lying" included and the second with the phrase omitted.

Subject to further discussions Monday morning, the Court is inclined to either admit the recording with the phrase "the police is lying" or exclude the recording altogether. In view of the context and tone of the conversation, the Court does not believe that Mr. Smith was making a self-serving statement.

I will make a final ruling prior to opening statements.

SO ORDERED.

Dated: New York, New York
August 1, 2008


DENNY CHIN
United States District Judge